

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROBERT P. LARGESS

Plaintiff,

vs.

SUPREME JUDICIAL COURT FOR THE
STATE OF MASSACHUSETTS;
CHIEF JUSTICE MARGARET MARSHALL,
JUSTICE ROBERT J. CORDY, JUSTICE
JUDITH A. COWIN, JUSTICE JOHN M.
GREANEY, JUSTICE RODERICK L. IRELAND,
JUSTICE MARTHA B. SOSMAN, JUSTICE
FRANCIS X. SPINA, in their official capacities
as Justices of the Supreme Judicial Court of
Massachusetts; MASSACHUSETTS
DEPARTMENT OF PUBLIC HEALTH;
CHRISTINE C. FERGUSON, in her official
capacity as Commissioner of the Massachusetts
Department of Public Health; JUDY A.
McCARTHY, in her official capacity as City
Registrar for the City of Boston; CITY AND
TOWN CLERKS 1-350,

Defendants.

Case No.

04 - 10921 JLT

**PLAINTIFF'S MOTION FOR WAIVER OF POSTING A SECURITY BOND
IN OBTAINING A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY
INJUNCTION**

COMES NOW the Plaintiff, by and through undersigned counsel, and respectfully requests this Court to enter an order waiving the requirement of posting security in order to obtain a Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65, and shows unto this Court as follows:

1. Federal Rule of Civil Procedure 65(c) provides that no restraining order or

preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained.

2. Under Federal Rule of Civil Procedure 65(c) this Court has the discretion to determine the necessity of posting security and the amount thereof.

3. In this instance, Plaintiff is represented by a public interest organization, Liberty Counsel, to uphold free speech and equal protection rights and the posting of security would work an undue hardship upon the Plaintiff. (See Affidavit attached as Exhibit A).

4. Requiring the Plaintiff to post security prior to obtaining a Temporary Restraining Order or a Preliminary Injunction would effectively deny the Plaintiff access to judicial review for the deprivation of the most fundamental of constitutional rights - the right to a republican form of government.


5. The public interest would best be served by waiving the requirement that the Plaintiff post security, and minimal harm would result to the Defendants by the imposition of the Temporary Restraining Order and Preliminary Injunction.

WHEREFORE, the Plaintiff, by and through undersigned counsel, respectfully requests this Court to enter an Order waiving the requirement of posting security prior to obtaining a Temporary Restraining Order Preliminary Injunction.

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DATED this 10th day of May, 2004.

Respectfully Submitted


Chester Darling by *Paul*

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